

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DILLON GRABOWSKI,

Defendant.

8:15CR257

ORDER

This matter is before the Court on defendant's objection, [Filing No. 34](#), to the decision of the magistrate judge, [Filing No. 31](#), denying his motion for extension of the pretrial order deadline, [Filing Nos. 26](#) and [28](#)¹. Defendant is charged in this case with conspiracy to distribute acetyl fentanyl analogue in violation of [21 U.S.C. § 846](#). [Filing No. 1](#).

Defendant moved for the extension on the basis that (1) defendant was released from treatment on December 21, 2015; (2) that counsel needed more time to discuss the case with his client; this case presents novel and complex issues regarding the interaction of [21 U.S.C. §802](#) (32), [21 U.S.C. 813](#) and [21 U.S.C. § 846](#) as well as the sentencing guideline to acetyl fentanyl. Defendant further indicated that he would agree to exclusion of the time for speedy trial purposes and that failure to grant this motion would be a miscarriage of justice. He asked the court in the interest of justice to grant him the extension. The magistrate judge found in one sentence that defendant's deadline expired on December 29, 2015. [Filing No. 31](#).

¹ The same motion was denied again by the magistrate judge. See [Filing Nos. 33](#) and [35](#).

In his objections, defendant notes that the Assistant Kimberly Bunjer was unavailable to advise as to her position on this motion. On December 28, 2015, Ms. Bunjer advised defendant's counsel that she has no objection to a 30 day extension. The Court was closed December 28, 2015. In view of the fact that defendant just recently was released from treatment, coupled with the agreement of the government counsel, the Court will grant the motion for an extension of 30 days. However, the Court will not permit any additional extensions absent good cause, and counsel is advised to be more timely in the future. Further, the Court finds that the time from the date of the filing of [Filing No. 28](#), until 30 days from the date of this order, is excludable. See [Filing No. 29](#), waiver of speedy trial.

THEREFORE, IT IS ORDERED THAT:

1. Defendant's motions to extend, [Filing Nos. 26](#) and [28](#) and [33](#), are granted;
2. Defendant's objections to the order of the magistrate judge, [Filing No. 34](#), are granted;
3. The magistrate judge's findings and recommendation, [Filing No. 31](#), is not adopted; and
4. The time from the date of the filing of [Filing No. 28](#), December 29, 2015, until 30 days from the date of this order, is excludable.

Dated this 12th day of January, 2016

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge